

November 13, 1930

10c a Copy



Volume 6, Number 3

\$1 Per Year

THE LOS ANGELES BAR ASSOCIATION  
**BULLETIN**

Official Publication of the Los Angeles Bar Association, Los Angeles, California

---

**PROPOSED CONSTITUTION AND BY-LAWS  
OF LOS ANGELES BAR ASSOCIATION**

**BAIL IN CRIMINAL CASES**

**A DEFENSE OF "ALTERNATIVE" METHOD OF APPEAL**

---

Printed by PARKER, STONE & BAIRD COMPANY  
Law Printers and Engravers  
241 East Fourth Street Los Angeles, California

# We Offer for Your Consideration

Large and Small Units in

## The Latest Addition to Our Skyscrapers

Rental Office Ground Floor on the Premises  
Telephone MADison 3898

MODERN  
IN  
EVERY  
PARTICULAR



LOCATION  
CENTER  
OF  
BUSINESS  
ACTIVITY

Ready for Occupancy October 15, 1930

## BANKERS BUILDING

629 SO. HILL STREET

Sun Realty Co., Owner

700 Roosevelt Bldg., 727 West Seventh St. Phone TRinity 3343

# The Proposed Constitution and By-Laws of the Los Angeles Bar Association

TO THE LOS ANGELES BAR ASSOCIATION AND ITS MEMBERS  
AND TO THE BOARD OF TRUSTEES OF  
LOS ANGELES BAR ASSOCIATION:

PLEASE TAKE NOTICE that the undersigned do hereby propose that the existing Constitution of Los Angeles Bar Association shall be amended by substituting for such existing Constitution a proposed new Constitution, a copy of which is submitted herewith.

PLEASE FURTHER TAKE NOTICE that this notice is given pursuant to Article XV of the existing Constitution, and that the undersigned will call up said proposal for a vote and will move the adoption of said proposed new Constitution as a substitute for the existing Constitution at the stated meeting of the Los Angeles Bar Association to be held in November, 1930.

Dated: October 10, 1930.

IRVING M. WALKER  
R. P. JENNINGS  
CLEMENT L. SHINN  
ARTHUR M. ELLIS  
LOYD WRIGHT

RAYMOND G. THOMPSON  
T. W. ROBINSON  
BERTIN A. WEYL  
LAWRENCE L. LARRABEE  
NORMAN A. BAILIE

## CONSTITUTION

### ARTICLE I.

#### NAME OF ASSOCIATION

This Association shall be called the "Los Angeles Bar Association."

### ARTICLE II.

#### OBJECTS

*Section 1.* This Association is established to advance the science of jurisprudence; to promote the administration of justice; to encourage a thorough legal education; to maintain the honor and dignity of the profession of the law and to cultivate social intercourse among its members.

*Section 2.* It shall not take any part in for any political office other than a judicial partisan politics nor recommend any person office. It may recommend persons for election or appointment to judicial office and take part in campaigns for such election to such offices in such manner as may be provided by the By-Laws.

### ARTICLE III.

#### MEMBERSHIP

*Section 1. Membership.* Membership of the Association shall consist of active members, honorary members, non-resident members and affiliated members, as those terms are hereinafter defined.

*Section 2. Active Members.* All persons admitted to practice before the Supreme Court of the State of California in good standing and all judges of courts of record in Los Angeles County are eligible to apply for active membership in this Association.

*Section 3. Honorary Members.* The Judges of the United States District Court for the Southern District of California, the Judges of the Supreme Court of California, and the Judges of the Second District of the District Court of Appeal of California, during the time that they shall respectively hold office, shall be honorary members of this Association. Persons distinguished for

# Los Angeles Bar Association Bulletin

VOL. 6

NOVEMBER 13, 1930

No. 3

Official Publication of the Los Angeles Bar Association. Published the third Thursday of each month.  
Entered as second class matter August 8, 1930, at the Postoffice at Los Angeles, Calif., under the Act of  
March 3, 1879.

## LOS ANGELES BAR ASSOCIATION

(City and County—Organized 1888)

Secretary's Office: 1126 Rowan Bldg., Los Angeles. Telephone VAndike 5701

### OFFICERS

NORMAN A. BAILIE, *President*  
IRVING M. WALKER, *Senior Vice-President* T. W. ROBINSON, *Treasurer*  
R. P. JENNINGS, *Junior Vice-President* LOYD WRIGHT, *Secretary*

### TRUSTEES

LAWRENCE L. LARRABEE  
ARTHUR M. ELLIS

CLEMENT L. SHINN  
JOE CRIDER, JR.

BERTIN A. WEYL  
HENRY F. PRINCE

### BULLETIN COMMITTEE

RUSSELL B. JARVIS  
EWELL D. MOORE

BIRNEY DONNELL, *Chairman*  
ALBERT E. MARKS, *Vice-Chairman*  
HUGH W. DARLING, *Secretary*

CHARLES R. BAIRD  
HENRY F. PRINCE, *Ex Officio*

**BUSINESS OFFICE**  
241 EAST FOURTH STREET  
TRinity 5206

**Editorial Office**  
511 Citizens Natl. Bank Bldg.  
TRinity 0274

## A Corporate Trustee for Your Clients

**W**HEN you are planning for a corporate Trustee for a client...  
either an estate, or any other form of trust... we invite you  
to make full use of any service we can render.

Our Trust Officers, realizing our community of interest with Mem-  
bers of the Bar, and having a high regard for the ethics of the  
legal profession, are ready to extend a maximum of cooperation at  
all times.

Main Office, Fifth and Spring

**CITIZENS NATIONAL BANK**  
TRUST & SAVINGS  
**LOS ANGELES**

32 BANKING OFFICES THROUGHOUT LOS ANGELES

public service or eminence in the law may be elected to honorary membership by vote of the Association. Honorary members shall not pay any admission fee or dues and shall not have a vote nor be eligible to be officers of the Association, but shall have all other rights of membership.

*Section 4. Non-Resident Members.* Any person who is eligible under the provisions of the Constitution of the Association to apply for membership therein, as an active member who maintains his principal office outside of the corporate limits of the City of Los Angeles and who resides in a city, town or district in which there is no bar association, or no bar association which has become an affiliated association, may be admitted to membership in the Los Angeles Bar Association as a non-resident member upon being passed for membership by the Membership Committee of this Association. Each non-resident member shall be entitled to all the rights and privileges of the Association.

*Section 5. Affiliated Members.* Affiliated members shall be those persons who become members by reason of their membership in an affiliated association. They shall be entitled to all the rights and privileges of the Association. The method by which an association may become an affiliated association and the amount of any admission fee or dues of such affiliated members shall be fixed by the By-Laws.

*Section 6. Admission.* The method of admission to membership shall be provided by the By-Laws of the Association.

*Section 7. Suspension and Expulsion.* The By-Laws may provide for the censure, suspension or expulsion of a member for cause after hearing, or for suspension for non-payment of dues. Any member suspended or expelled may be reinstated by vote of a majority of the members of the Board of Trustees.

#### ARTICLE IV.

##### ADMISSION FEES AND DUES

The admission fee and the annual dues shall be fixed by the By-Laws.

#### ARTICLE V.

##### OFFICERS AND TRUSTEES

*Section 1. Officers.* The Association shall have the following officers: A president, a senior vice-president, a junior vice-president, a secretary and a treasurer.

*Section 2. Board of Trustees.* The Association shall have a Board of Trustees made

up of the president, the senior vice-president, the junior vice-president and eight additional trustees elected from the active members of this Association; and if there be one or more affiliated associations, one additional trustee from each affiliated association, not to exceed four in all, and not more than one trustee to be elected from the membership of any one affiliated association. Any such trustee so elected from an affiliated association must be an affiliated member of this Association. The Board of Trustees shall at their first meeting after their installation elect from among their number a secretary and a treasurer.

*Section 3. Election and Term of Office.* The president, the senior vice-president and the junior vice-president shall be elected by the members at the annual election of the Association, and shall hold office for one year and until the installation of their successors. The installation of officers and trustees shall take place at the annual meeting of members.

*Section 4. Election and Term of Trustees.* Officers and trustees of the Association in office at the time of the adoption of this Constitution shall continue in office for the remainder of the terms for which they have been elected and until their successors are installed.

At the next annual election subsequent to the adoption of this Constitution there shall be elected the required number of trustees from the affiliated members, if any, and such additional number of trustees from the active members of this Association in addition to those who continue in office, as provided herein, as will make eight trustees from the active members of this Association besides the president and the senior and junior vice-presidents.

If there be only one affiliated member elected trustee at such election, then he shall serve for one year; if there be two affiliated members elected trustee at such election, then one shall serve for one year and one for two years; if there be three affiliated members elected trustee at such election, then two shall serve for one year and one for two years; if there be four affiliated members elected trustee at such election, then two shall serve for one year and two for two years.

At the next meeting of the Board of Trustees after their installation the said trustees elected from such affiliated members shall by lot determine those who are

to serve for one year and those who are to serve for two years.

The trustees elected at such election from the active members of this Association shall also by lot select to serve for two years such number as shall be required to provide four trustees from among the active members of this Association serving for two years and four serving for one year.

At all subsequent elections the required number, not exceeding two trustees, shall be elected from among affiliated members, if any, and four from among the active members of this Association, all to serve for two years. At all times eight of such additional trustees shall be active members of this Association and the required number, not exceeding four, shall be affiliated members.

*Section 5. Vacancies.* Vacancies in any office, or in the position of trustee, shall be filled by the Board of Trustees, and each officer or trustee so appointed shall hold office until the election and installation of his successor.

#### ARTICLE VI. ELECTIONS

The Association shall hold a regular annual election for the election of officers and trustees. The election shall be held or completed in January of each year. The time and manner of holding the election shall be provided for by the By-Laws.

#### ARTICLE VII. MEETINGS OF MEMBERS

*Section 1. Annual Meeting.* The Association shall hold an annual meeting of members. The meeting shall be held in the City of Los Angeles on a date to be fixed by the By-Laws.

*Section 2. Other Meetings.* The By-Laws may make provision for regular monthly meetings of members and for special meetings of members.

*Section 3.* The By-Laws shall make provision for fixing the time and place of holding meetings; for giving notice of meetings; for calling special meetings; for quorums at meetings; for the rules of order, and for other proper matters.

#### ARTICLE VIII. DUTIES OF BOARD OF TRUSTEES AND OFFICERS

*Section 1. Board of Trustees.* The Board of Trustees shall manage the affairs of the

Association, subject to and in accordance with the Constitution and By-Laws of the Association, and shall perform such other duties as shall be provided by the By-Laws. The By-Laws shall provide for the number constituting a quorum.

*Section 2. Officers.* The officers shall have such powers and perform such duties as shall be provided by the By-Laws.

#### ARTICLE IX. CODE OF ETHICS

The Code of Ethics of the American Bar Association and all amendments hereafter adopted thereto shall be the Code of Ethics of this Association.

#### ARTICLE X. BY-LAWS

The Association may adopt a code of By-Laws in the same manner in which it may adopt amendments to this Constitution. The By-Laws may provide the manner in which the By-Laws may thereafter be amended.

#### ARTICLE XI. AMENDMENTS

This Constitution may be amended at any annual, monthly or special meeting of the Association by a two-thirds vote of all members entitled to vote present at the meeting and voting, provided the proposed amendment, subscribed by ten members in good standing, is submitted at a previous meeting of the Association, with written notice that it will be presented for adoption at a named succeeding meeting of the Association, and provided a copy of the amendment with notice of the time that it will be presented for adoption, is mailed to all members of the Association entitled to vote at least five days before the date of said meeting. It shall be the duty of the Secretary to give such notice of any proposed amendment, and his certificate that such notice has been so mailed shall be conclusive evidence thereof. Upon the consideration of any proposed amendment to this Constitution at any meeting, amendments thereto on the same subject may be offered, voted upon and adopted at the same meeting without previous notice.

#### ARTICLE XII.

This Constitution shall take effect when adopted.



## BY-LAWS

TO THE LOS ANGELES BAR ASSOCIATION AND ITS MEMBERS  
AND TO THE BOARD OF TRUSTEES OF  
LOS ANGELES BAR ASSOCIATION:

PLEASE TAKE NOTICE that the undersigned do hereby propose that the existing By-Laws of Los Angeles Bar Association shall be amended by substituting for such existing By-Laws a proposed new Code of By-Laws, a copy of which is submitted herewith.

PLEASE FURTHER TAKE NOTICE that this notice is given pursuant to Article XI of the existing By-Laws, and that the undersigned will call up said proposal for a vote and will move the adoption of said proposed new code of By-Laws as a substitute for the existing code of By-Laws at the stated meeting of the Los Angeles Bar Association to be held in November, 1930.

Dated: October 10, 1930.

IRVING M. WALKER  
R. P. JENNINGS  
CLEMENT L. SHINN  
ARTHUR M. ELLIS  
LOYD WRIGHT

RAYMOND G. THOMPSON  
T. W. ROBINSON  
BERTIN A. WEYL  
LAWRENCE L. LARRABEE  
NORMAN A. BAILIE

## ARTICLE I.

## MEETINGS OF MEMBERS

*Section 1. Annual Meeting.* The Association shall hold an annual meeting of members on the fourth Thursday of February of each year at 7:30 o'clock p.m.

*Section 2. Monthly Meetings.* The Association shall hold regular monthly meetings of members in each month except July, August and September of each year. The meetings shall be held on dates to be fixed by the Board of Trustees and in the absence of different action by the Board of Trustees, shall be held on the fourth Thursday of each month at the hour of 7:30 o'clock p.m.

*Section 3. Special Meetings.* The Association shall hold special meetings of members upon the call of the President or the Board of Trustees. The President shall call a special meeting upon written request therefor, signed by fifty members of the Association.

*Section 4. Presiding Officer.* At all meetings of the Association, the President, or in his absence one of the Vice-presidents, or in the absence of all of them, any member selected by the meeting, shall preside.

*Section 5. Adjournment.* Any meeting of the Association may be adjourned to a future date by vote of a majority present at the meeting and voting.

*Section 6. Place of Meetings.* The place at which meetings of members shall be held

shall be fixed from time to time by the Board of Trustees.

*Section 7. Notices.* Notices of meetings of members shall be mailed by the Secretary to each member of the Association at his address as it appears on the books of the Association at least five days before the date of the meeting.

*Section 8. Quorum.* Fifty active members shall constitute a quorum for the conduct of business at any meeting of the Association.

*Section 9. Rules of Order.* Except as otherwise provided by the Constitution or By-Laws, the meetings of the Association shall be conducted in accordance with Roberts "Rules of Order." At all meetings of the Association the order of business shall be as prescribed by the President.

## ARTICLE II.

## ELECTIONS

*Section 1. Time.* The Association shall hold a regular annual election for the election of officers and trustees of the Association, which shall be completed by the 15th day of January of each year, which last named date is hereby declared to be the election day, unless the same falls on Sunday or a holiday, in which event the last preceding business day shall be the election day.

*Section 2. Nominating Committee.* A tee to be filled at the election. The report

# **Coming...**

**The 1930 Supplement to**

## **CALIFORNIA JURISPRUDENCE**

**will be ready this fall**

It will bring the references to decisions  
and legislation

**PRACTICALLY DOWN TO DATE**

### **SPECIAL FEATURE**

In addition to the regular supplementary  
matter, there will be given a complete  
**NEW ARTICLE** on

### **COMMUNITY PROPERTY**

**By Orrin K. McMurray**

In this article the entire law of community and  
separate property is restated in the light of the  
late statutes and decisions.

**Bancroft-Whitney Co.**

**San Francisco  
Los Angeles**



nominating committee of seven members of the Association shall be selected at the regular monthly meeting of the Association held in November in each year. The nominating committee shall nominate one member of the Association for each of the offices of president, senior vice-president and junior vice-president, and one member of the Association for each position of trustee. The nominations shall be forwarded to the Secretary of the Association and shall be posted on the bulletin board of the County Law Library on or before December 5th.

*Section 3. Additional Nominations.* Additional nominations for any office or for the position of trustee may be made by filing with the Secretary at any time on or before December 15th a written nomination signed by at least twenty-five members of the Association in good standing entitled to vote.

*Section 4. Ballots.* A ballot containing the names of the nominees for each office and with a blank "write in" space after each office shall be mailed to each member of the Association entitled to vote not later than December 31st of each year. The ballot shall be in such form and shall contain such instructions as may be prescribed by the Board of Trustees.

*Section 5. Voting.* All active affiliated and non-resident members of the Association shall have the right to vote for nominees named on the ballot, or for any qualified member of the Association whose name may be written on the ballot. Ballots must be returned to the Secretary in accordance with the instructions written on or furnished with the ballot not later than 2:30 o'clock p.m. on the election day, at which time the voting shall cease and the polls shall close.

*Section 6. Counting.* Immediately upon the close of the balloting, the votes shall be canvassed and counted by a committee of five members, to be appointed by the President, and the result shall be reported to the President in writing.

*Section 7. Votes to Elect.* A plurality of votes cast shall elect. In case two or more candidates for one office shall receive an equal number of votes, a ballot shall be taken at the first regular monthly meeting thereafter as between such candidates.

### ARTICLE III.

#### BOARD OF TRUSTEES

*Section 1. Powers and Duties.* The Board of Trustees shall manage the affairs of the Association subject to and in accordance with the Constitution and By-Laws. All appropriations of funds of the Association must be made by the Board of Trustees unless ordered by the Association by a two-thirds vote of those voting at a meeting. It shall have power to provide for and maintain rooms for the use of the Association; provide for and employ such assistant secretaries or other employees as may in its discretion seem proper or may be provided for by action of the Association; fix the compensation of such officers and employees; institute and maintain on behalf of the Association all necessary actions, proceedings and prosecutions directed by the Association or which in the discretion of the Board of Trustees may be necessary or proper to carry out the will or objects of the Association; and perform such other duties as may be prescribed by the By-Laws or resolutions of the Association.

*Section 2. Meetings.* The Board of Trustees shall meet at least once in each month and shall keep a record of its proceedings. It shall make its own rules as to times, places and notices of meetings and its own rules of procedure.

*Section 3. Quorum.* Six members of the Board of Trustees shall constitute a quorum.

*Section 4. Reports.* The Board of Trustees shall report its proceedings at the annual meeting of the Association. It shall make such reports and present such matters for action at the regular monthly meetings, or at other meetings of the Association, as in its judgment may require the action of the Association.

### ARTICLE IV.

#### OFFICERS

*Section 1. President.* It shall be the duty of the President to preside at all meetings of the Association; with the advice of the Board of Trustees to appoint the standing committees provided for in the By-Laws and such special committees and delegates as may from time to time seem to him best, or which may be provided for by action of the Board of Trustees or the Association. He shall have such other powers and

perform such other duties not inconsistent with the Constitution and By-Laws of the Association as are usually possessed or exercised by presiding officers. He shall be ex-officio chairman of the Board of Trustees.

*Section 2. Vice-Presidents.* It shall be the duty of the Senior Vice-President, and in his absence, of the Junior Vice-President, to perform the duties of the President of the Association during his absence or inability to act.

*Section 3. Secretary.* It shall be the duty of the Secretary to keep a record of the proceedings of all meetings of the Association and of the Board of Trustees and a record of all matters of which a record shall be ordered by the Association, the Board of Trustees or the President. He shall mail all notices of meetings, keep a record of the name and address of all members, showing the dates when they became members and the cause and date of termination of membership of such persons who shall cease to be members. He shall be ex-officio secretary of the Board of Trustees. He shall perform such other duties as may be assigned to him by the Association, the Board of Trustees or the President.

The Board of Trustees may create the office of and employ an Executive Secretary, who need not be a member of the Association. The Board of Trustees may delegate to the Executive Secretary such duties of the Secretary as they see fit, and assign to him such other duties as they deem proper. The Board of Trustees may fix the salary and term of employment of the Executive Secretary.

*Section 4. Treasurer.* The Treasurer shall collect and take charge of, and under the direction of the Board of Trustees, shall disburse all funds of the Association; he shall keep regular accounts in books belonging to the Association, which shall be open to the inspection of any member of the Board of Trustees. At the annual meeting he shall make a full report of the receipts and disbursements of the past year, suitably classified, and of all outstanding obligations of the Association with an estimate of the resources and probable expenses of the coming year; and he may make any suggestions pertinent thereto that he may deem proper. His accounts shall be audited prior to each annual meeting by a committee of three members of the Association to be appointed by the President.

## ARTICLE V.

### MEMBERSHIP AND DUES

*Section 1. Admission to Membership.* Any person desiring to become a member of this Association shall file with the Secretary of the Association a written application for membership in such form as may be prescribed by the Board of Trustees. The application shall be referred to the Committee on Membership and no person shall be admitted to membership except after his application has been approved by the Committee on Membership and accepted by the Board of Trustees. All proceedings of the Committee on Membership in passing on applications shall be secret and confidential. Upon election to membership and the payment of dues for the current year, the member shall receive a certificate of membership in the Association.

*Section 2. Admission Fee and Dues.* There shall be no admission fee. Annual dues of active members shall be Ten Dollars per calendar year, and of non-resident members Five Dollars per calendar year, and shall be payable in advance on January second of each year.

*Section 3. Certificate of Membership.* A certificate of membership, in such form as may be prescribed by the Board of Trustees, shall be issued annually to each member upon payment of his annual dues.

*Section 4. Failure to Pay Dues.* Any member failing to pay his annual dues within six months after the date when the same became due may be suspended by the Board of Trustees after notice, and shall only be reinstated upon payment of all dues or upon remission thereof by the Board of Trustees.

## ARTICLE VI.

### AFFILIATED ASSOCIATIONS

*Section 1.* Any other bar association of Los Angeles County may become affiliated with this Association by filing an application for such affiliation and by having such application approved by the Board of Trustees of this Association. Every such association shall be known as an "affiliated association."

*Section 2.* Each bar association, upon becoming an affiliated association, shall pay to this Association for each of the members of such affiliated association the sum of Five Dollars, less one-fourth thereof for each expired quarter of the calendar year, and thereafter shall pay to this Association

annually the sum of Five Dollars for each member of such association not suspended for the nonpayment of dues who becomes an affiliated member of this Association. Such dues shall be payable in advance on January second of each year. Thereafter such affiliated association shall pay to this Association the further sum of Five Dollars for each new affiliated member upon notification of his becoming an affiliated member, as provided in the next succeeding section.

Section 3. Each association, upon becoming an affiliated association, shall supply to the Secretary of this Association a list of the members of such affiliated association, together with such data in regard thereto as may be required by this Association. A similar list shall be filed by each affiliated association with the Secretary of this Association on January second of each year and from time to time as changes in the membership of such affiliated association occur. Promptly after receiving any such list of members of any affiliated association the Secretary of this Association shall transmit such list to the membership committee of this Association, and upon approval by such membership committee and acceptance by the Board of Trustees of this Association, the persons so approved and accepted shall become affiliated members of this Association. In determining which persons shall be approved as such affiliated members, the Membership Committee shall apply the same rules and practices as those generally applied by it in determining who shall become active members of this Association; provided, however, that no person shall become eligible to membership of any kind under the provisions of this article if such person is a member of this association but not in good standing, unless such person shall have placed himself in good standing with this Association. The Secretary of this Association shall promptly certify to such affiliated associations the names of the persons who have become affiliated members under the provisions of this article.

Section 4. Whenever any person who becomes an affiliated member of this Association is a member of this Association, he may relinquish his status as such member, and if he has theretofore paid dues to this Association for the current year, and if at the beginning of such current year he was a member in good standing of an affil-

ated association, there shall be returned to him by this Association the sum of Five Dollars.

Section 5. If any affiliated association shall fail for a period of two months after written notice to its secretary to make any payments to this Association provided for in this Article, such affiliated association may be suspended by the Board of Trustees of this Association and thereupon all rights and privileges of its members in this Association shall be likewise suspended.

#### ARTICLE VII.

#### CENSURE, SUSPENSION AND EXPULSION

Any member of the Association may be censured, suspended or expelled by the Board of Trustees by the affirmative vote of not less than six (6) members of the Board, for any violation of the Code of Ethics of this Association or for other good cause. Before any such action may be taken, written charges must be filed against the member and written notice of the proposed hearing on such charges must be given to the member charged, at least ten (10) days before the date of such hearing. At any such hearing, the member charged shall be given an opportunity to be heard and to present evidence in answer to such charges.

The disbarment or suspension from the practice of law of any member shall *ipso facto* terminate his membership in this Association.

#### ARTICLE VIII.

#### COMMITTEES

Section 1. The Association shall have standing committees to be known by the names and to have the functions as are hereinafter set forth. The committees shall be composed of such number of members as hereinafter provided, or such other number as the President shall determine. The committees shall be appointed annually by the President of the Association with the advice of the Board of Trustees as soon after his election as is practicable, and shall continue in office until the annual meeting next after the appointment and until successors are appointed.

Section 2. Each committee shall have power to fix its own times and places of meetings, and to adopt rules for its own government and course of proceedings consistent with the Constitution and By-Laws

# They are never surprised

Something that is expected is never a surprise.

Our clients are never surprised when their claims are promptly and fully paid...it is what they expect.

They know that protection really means protection when written by the largest insurance agency on the West Coast.

If you know that you are fully protected, then you have a good insurance agent. However, if you have the least doubt, a written analysis by our trained insurance specialists is yours for the asking.



© 1929 mmm



## RULE & SONS, INC.

PACIFIC FINANCE BUILDING  
LOS ANGELES, CALIFORNIA

## The Los Angeles Daily Journal

121 North Broadway

ISSUED DAILY SINCE 1888

Publishes the Official Court Calendars

Legal Notices Given Prompt and Careful Attention

Phone MUtual 6138 or MUtual 6139  
and Our Representative Will Call

and the directions of the Association. Each committee shall keep a record of all its proceedings. A majority shall constitute a quorum at meetings of committees.

Section 3. The standing committees shall be as follows:

#### *Committee on Arbitration*

The Committee on Arbitration shall consist of nine (9) members or such other number as the President may from time to time provide. It shall be the function of the Committee, or any section thereof, to act as arbitrators of disputes or differences between attorneys, or between client and attorney, relative to (a) professional conduct, (b) breach of the code of ethics, (c) the amount, division or payment of fees, to the end that such disputes may be arbitrated and settled without publicity and without recourse to the courts.

The Committee shall make its own rules of procedure, and may provide for an arbitration or hearing by or before one or more members of the committee. The Committee shall conduct its proceedings as informally and expeditiously as it shall deem consistent with the rights of those whose interests are involved.

#### *Committee on The Bulletin*

The Bulletin Committee shall consist of five members. Subject to the control of the Board of Trustees, it shall be the duty of this Committee to supervise the publication of a bulletin of value and interest to members of the Bench and Bar; to direct the editorial and managerial policies of such bulletin; and to conduct the detail work of publication, financing and distribution of the bulletin through paid employees.

#### *Committee on Constitutional Amendments*

The Committee on Constitutional Amendments shall consist of nine members. This committee shall be charged with the duty of watching all pending resolutions in the Legislature of the State of California and in the Congress of the United States, proposing changes in the Constitution of this State or the Federal Constitution, and it shall be charged with the duty of reporting to the Board of Trustees whenever in the judgment of the committee any action thereon shall be required.

#### *Committee on Coordination of Committee Work*

The Committee on Coordination of Committee Work shall consist of seven (7)

members. It shall be the duty of this Committee to coordinate the work of all Committees of the Association; to cause the several other Committees as soon as practicable after their appointment to outline and plan a program for the coming year in such manner as to obviate duplication of work; to promptly familiarize itself with the work and reports of each Committee for the preceding year and to call to the attention of each newly appointed Committee such portions of the report of its predecessor as in the judgment of this Committee may merit further consideration; to keep in touch with the progress of all Committees during the year and from time to time to suggest additional subjects for their consideration; to formulate and recommend to the President plans for coordinating the activities of this Association with the work of the State Bar; to report at the end of each year and at other times when requested by the President as to its work and that of the other Committees, and to perform such further duties as may be requested by the President or the Board of Trustees.

#### *Committee on Corporations*

The Committee on Corporations shall consist of nine (9) members. It shall be the duty of this Committee to investigate defects and other objectionable features in the form or operation of the laws of this State pertaining to corporations; to determine the necessity for a general revision of such laws or for amendments thereto; to formulate and recommend such constitutional amendments and such statutes as may be necessary to accomplish revision or amendment to the laws pertaining to corporations.

#### *Committee on Criminal Law and Procedure*

The Committee on Criminal Law and Procedure shall consist of nine (9) members. This Committee shall have charge and cognizance of all matters pertaining to the administration or amendment of the criminal law, both statutory and constitutional, substantive and adjective, and shall perform the same duties and have the same powers with reference to the criminal law as those given to and performed by the committees on substantive law and the committee on pleading and practice with reference to the civil law.



*Committee on Illegal Practices*

The Committee on Illegal Practices shall consist of seven (7) members. It shall be the duty of this committee to investigate such special matters and cases as may be assigned to it from time to time by the President or Board of Trustees pertaining to methods or practices of licensed lawyers in procuring, soliciting, handling, dividing or distributing law business, cases or fees, which methods or practices are generally regarded as unethical or detrimental to the public welfare, and unworthy of the legal profession, and to promptly make its recommendation thereon to the Board of Trustees, and to perform such other duties in connection therewith as may be delegated to it from time to time by the President or Board of Trustees.

*Committee on the Judiciary*

The Committee on the Judiciary shall consist of nine (9) members. It shall be the duty of this Committee to elevate the position of the Judiciary in the opinion of the public, and to urge and promote among all judges a strict observance of the Canons of Judicial Ethics of the American Bar Association.

It shall be the duty of this Committee to consider and investigate any complaint which may be laid before it of improper conduct upon the part of any Judge or Court officer and to report the same to the Board of Trustees. It shall also consider such other matters as may be referred to it by the Board of Trustees.

*Junior Committee*

The Junior Committee shall consist of all those members of the Los Angeles Bar Association who have been admitted to practice by examination within three years. The Chairman of the Committee shall be appointed by the President with the advice of the Board of Trustees. It shall be the duty of this Committee to stimulate and broaden the young lawyer's acquaintance among the members of the Bar and the occupants of the Bench; to form an available working unit which can be used to assist in the work of the Bar Association; to promote among its members especially, and among members of the Bar generally, high standards in practice and respect for and understanding of the profession.

*Committee on Law Libraries*

The Committee on Law Libraries will consist of five members. The Committee shall be charged with the duty of observing and aiding the law libraries in Los Angeles County, and with the making of such recommendations to the Association or Board of Trustees, in connection therewith, as it may deem proper, and performing such other duties in connection with law libraries in Los Angeles County as may be delegated to it by the Board of Trustees.

*Committee on Legal Education*

The Committee on Legal Education shall consist of nine members. The Committee shall investigate the laws relative to the admission to the Bar and the administration of such laws and shall recommend to the Association or to the Board of Trustees from time to time such changes therein as it may deem advisable. The Committee shall also inquire into matters of legal education and into the practices and requirements of the local schools offering courses in law.

*Committee on Legal Ethics*

The Committee on Legal Ethics shall consist of five members. It shall be the duty of this Committee to take original action or to cooperate with the American Bar Association and other associations of lawyers in the United States in all matters tending to the elevation of the standard of professional honor and conduct.

This Committee may prepare or cause to be prepared articles upon subjects relating to professional ethics and with the approval of the Board of Trustees may publish the same. The Committee may, when requested, answer inquiries respecting questions of proper professional conduct. All hypothetical questions on matters of ethics shall be submitted to the Committee in writing, shall be passed upon by the Committee as a whole and the Committee's opinion shall be rendered in writing. All opinions of the Committee shall be advisory only and it shall be so stated in each opinion.

*Committee on Legislation*

The Committee on Legislation shall consist of nine (9) members.

It shall be the duty of this Committee to draft and present to the Legislature of the State of California, either independent-



## We Realize

that although we may handle a hundred title orders a day — as far as you are concerned your order is the order.

. . . That's why our service is always warm, personal and individual.

### California Title Insurance Company

LOS ANGELES, CALIF.

626 South Spring St.

Phone TRinity 3221

ly or in conjunction with representatives of the State Bar, all legislation recommended by the Board of Trustees, or by the Association.

#### *Committee on Membership*

The Committee on Membership shall consist of five (5) members. The Committee shall pass upon all applications for membership in the Association and shall make monthly recommendations and reports to the Board of Trustees. All proceedings of the Committee on Membership, in acting on applications for membership, shall be secret and confidential.

#### *Committee on Municipal Corporations*

The Committee on Municipal Corporations shall consist of nine (9) members. It shall be the duty of this Committee to investigate and consider the laws of the State of California, insofar as they relate to Municipal and other Public Corporations, and the Charters and Ordinances of the County of Los Angeles, the City of Los Angeles, and other cities in the county, and to formulate and recommend to the Association needed amendments and new measures for the improvement of the law and the administration thereof.

#### *Committee on Pleading and Practice*

The Committee on Pleading and Practice shall consist of nine (9) members. This Committee shall have charge and cognizance of all matters pertaining to the amendment of the law relating to pleading and practice, other than criminal law. Whenever in its opinion any amendment is desirable it shall formulate a bill or resolution embodying the same and report it with its opinion to the Board of Trustees for such action as the Board may think proper.

It shall also be the duty of this Committee to examine bills relating to Pleading or Practice introduced in the Legislature of the State of California, and to report thereon to the Board of Trustees.

#### *Committee on Probate Law and Procedure*

The Committee on Probate Law and Procedure shall consist of five (5) members. It shall be the duty of this Committee to consider all matters having to do with the laws of wills and the probate thereof, the administration and distribution of the estates of decedents, the adjective law having to do with such subjects, the practices

of the Probate Courts of Los Angeles County and of the Probate Department of the County Clerk's office. The Committee shall recommend to the Board of Trustees such amendments and additions to the laws and of changes in practices on such subjects as it considers advisable.

#### *Program Committee*

The Program Committee shall consist of five (5) members. The Committee shall have charge of the entertainment features of meetings of the Association subject to the approval of the President.

#### *Committee on Public Defender's List*

The Committee on Public Defender's List shall consist of three (3) members. This Committee shall co-operate with the Public Defender of the County of Los Angeles and the Public Defender of the City of Los Angeles when requested by such Public Defender, in the selection of members of the profession to represent persons who may be sent to them by the Public Defender's office on civil matters.

#### *Committee on Substantive Law*

The Committee on Substantive Law shall consist of nine (9) members. It shall be the duty of this Committee to assume charge of all matters pertaining to the enactment, initiation or amendment of substantive civil law, which do not come within the jurisdiction of any other committee, standing or special. Whenever, in the opinion of the Committee, enactment, initiation or amendment of substantive civil law is desirable, it shall formulate the same and report it, with its opinion, to the Board of Trustees. The Committee shall examine bills affecting Substantive Civil Law introduced in the Legislature of the State of California, and report its opinion thereon to the Board of Trustees.

#### *Committee on Unlawful Practice of Law*

The Committee on Unlawful Practice of the Law shall consist of eleven (11) members. It shall be the duty of this Committee to take original action or to co-operate with other associations of lawyers in all matters pertaining to the elimination of the unlawful practice of law by individuals or corporations. It shall also be the duty of this Committee to examine into and investigate any practice or method of procuring or transacting law work or business

---

## Designating a "CORPORATE" EXECUTOR or TRUSTEE

---

**I**N the preparation of a Will for a client, and the designation of a corporate Executor or Trustee, the conscientious attorney considers the general reputation of the proposed trustee, both as to safety, method of handling trusts, and considerate attitude toward beneficiaries.

An attorney is also entitled to know that such a trustee or executor will recognize his own just claims to carry on the necessary legal work connected with the estate.

In all these considerations, the general practice and reputation of Security-First National Bank will be found satisfactory.

**SECURITY-FIRST NATIONAL  
BANK OF LOS ANGELES**  
SAVINGS      COMMERCIAL      TRUST

---

### BOOK REVIEW

POMEROY'S CODE REMEDIES: By John Norton Pomeroy; (Fifth edition by Walter Carrington); 1929; 1154 pages; Little, Brown and Co., Boston, Mass.

When code pleading began its inroad on the old forms of action there was much confusion as to the application of the new procedure and its effect on the strict common law systems of pleading. Many members of both the bench and bar were doubtful as to the wisdom and practicability of the code system. However, Pomeroy was one of the staunchest advocates of the code method of pleading. His book went into the new problems enthusiastically and developed a rationale of the system.

Since the fourth edition of "Pomeroy's Code Remedies" in 1904, there have been many decisions by the courts of the several states which have interpreted and construed code procedural provisions, and the ideal system as visualized by Pomeroy has come to be more or less of a practical reality in many jurisdictions. The present edition brings the citations up to date and affords the practitioner ready reference to many decisions in California which are important to any pleader. The decisions of courts of other states which use the same system of pleading are also valuable in reference to points as yet undecided in California. The fifth edition is by Walter Carrington, best known for his edition of Cooley on "Constitutional Limitations."

JACK W. HARDY.

by individuals or corporations not lawyers which it may regard as prejudicial to the welfare of the community or of the profession, and to report from time to time to the Board of Trustees, which shall take such action thereon as it may deem proper. This Committee shall have power to receive complaints, to take evidence, and upon the approval of the Board of Trustees or the Association to present cases for prosecution to the duly authorized prosecuting officers of the city, county, or state; to prepare complaints to the Attorney General of the State for the dissolution or vacating of the charter of any corporation practicing law; and to initiate and propose legislation tending to prohibit practice of the law by corporations or individuals not admitted to the Bar.

The Committee shall have power to employ counsel with such compensation as the Board of Trustees may provide. Such counsel shall represent the Association in proceedings instituted before the Courts.

#### ARTICLE IX. CONCERNING JUDICIAL CANDIDATES

The Board of Trustees shall, prior to all regular primary elections at which candidates for any office of judge of the Superior Court of Los Angeles County or of the Municipal Court of the City of Los Angeles are to be voted upon, and may prior to all other elections or appointments to judicial office, conduct a plebiscite for the purpose of passing upon the qualifications of candidates for election or appointment to judicial office and of determining the candidate best qualified for such office. The plebiscite shall be conducted in the manner hereinafter directed. The Board of Trustees may delegate to a special committee, to be appointed by the President, the conduct of any such plebiscite. The committee conducting any plebiscite shall be charged with the following duties:

(a) The committee shall, where there is more than one candidate for the same office, print for distribution to the members of the Association data as to each candidate, giving his age, period of practice in California, extent and nature of his education and practice; a statement, if supplied by the candidate, in one hundred words or less, of qualifications claimed for such candidate; and such other facts as may be of value in

determining his qualifications for that office. The committee may endeavor to induce fit persons to become candidates.

(b) To prepare and mail to each member of the Association such data, together with a ballot containing the names of all candidates for election or appointment, *provided there is more than one candidate for the office to be filled*, the names of the candidates being bracketed according to the office to which election or appointment is sought. Each ballot shall be so arranged as to require the voter to express his opinion as to which candidate is best qualified for the particular office to which election or appointment is sought. The time of mailing ballots and the time when ballots must be returned in order to be counted and all details respecting the time and manner of voting, the counting of ballots and the conduct of the plebiscite (except as herein specifically set forth) shall be determined and fixed by the Board of Trustees.

(c) *Said opinions expressed upon each of said ballots shall be canvassed and tabulated by said Committee, and with the information so obtained, the following conclusions shall be reached:*

*If it appears, by the vote of a majority of those who have expressed an opinion upon the qualifications of the candidates for a particular office, that one of them is best qualified for the office sought, such determination shall be deemed the judgment of the Association as to his qualifications and he shall be endorsed by the Association.*

(d) The Board of Trustees may order a further plebiscite taken as to any office or offices when a prior plebiscite shall have failed to result in the endorsement of a candidate or candidates therefor, or in the event of the defeat of the Association's candidate in a primary election, or in case of a tie vote, or for other good cause. When there are more than two candidates for an office, the Board of Trustees may on second plebiscite eliminate all but the two candidates receiving the highest number of votes at the prior plebiscite.

(e) The Association, through its Board of Trustees, shall conduct a campaign in the ensuing primary and general elections in favor of all candidates endorsed for election, and shall recommend all candidates endorsed for appointment. *Such campaign*

shall be nonpartisan in nature and shall include a thorough dissemination to the voters of the qualifications of the candidates endorsed, and such other facts as the Board of Trustees may deem advisable. The expenses of such campaign shall be raised in such manner as the Board of Trustees may direct.

(f) It shall be contrary to the spirit and purpose of the plebiscite for any candidate to campaign for himself or herself, or for any member or members of the Association to campaign or join in a campaign for the support of any candidate, by petition, circulars, letters, postals, telephone, or otherwise to endeavor to influence the vote in the plebiscite.

A copy of this sub-section shall be printed in all plebiscite ballots.

(g) Whenever it is provided in paragraph (b) of Article IX of these By-Laws that any information, data, ballot and/or document is to be given and/or mailed to and/or obtained for the members of this Association, the same shall also be given, or

mailed to, or obtained for, as the case may be, those members of each bar association in the County of Los Angeles, State of California, who are not members of this Association, and whenever it is provided in paragraph (b) of Article IX of these By-Laws that an expression of opinion is to be obtained or acted upon or canvassed or tabulated, such expression of opinion shall in like manner be obtained from those members of each of said bar associations in said County of Los Angeles who are not members of this Association, and shall be canvassed, tabulated and acted upon in like manner as though such expression of opinion were that of a member of this Association, to the end that the plebiscite provided for in paragraph (b) of Article IX of these By-Laws may be a plebiscite of the members of this Association and of all other bar associations in said County of Los Angeles; provided, always, that the provisions of this subdivision (g) shall not apply in connection with any plebiscite relative to candidates for the office of Judge of the Municipal Court of the City of Los Angeles.

#### ARTICLE X.

#### AMENDMENTS TO BY-LAWS

These By-Laws may be amended at any annual, monthly or special meeting of the Association by a two-thirds vote of all members of the Association entitled to vote present at the meeting and voting, provided the proposed amendment has been submitted to the Board of Trustees at least five days before the date of the said meeting, and provided the proposed amendment, with notice that it will be presented for adoption at the meeting, shall have been mailed to all active members of the Association at least five days before the date of said meeting. It shall be the duty of the Secretary to give notice of any proposed amendment to these By-Laws which may be presented to him by a member of the Association, and his certificate that such notice has been so mailed shall be conclusive evidence thereof.

Upon the consideration of any proposed amendments at any meeting, amendments thereto on the same subject may be offered, voted upon and adopted at the same meeting without previous notice.

## State wide TRUST SERVICE



**MAKE SURE**

that your clients' interests  
are safeguarded by  
designating as executor  
and trustee

California's largest bank.

## Bank of Italy

NATIONAL TRUST & SAVINGS ASSOCIATION  
A NATIONAL BANK

# TITLE INSURANCE AND TRUST COMPANY

*Capital and Surplus \$14,000,000*

CALIFORNIA'S LARGEST TITLE INSURANCE COMPANY



## EXECUTOR of Wills

*Title Insurance Building*

433 SOUTH SPRING STREET

*Los Angeles*



## Bail in Criminal Cases:

### Need for Legislative Revision

#### ANTIQUATED BAIL BOND PROVISIONS REQUIRE AMENDMENT IN ORDER TO PROMOTE FUNDAMENTAL PURPOSE OF BAIL IN SECURING PRESENCE OF CRIMINAL DEFENDANT FOR TRIAL AND SENTENCE, AND NOT TO SWELL COFFERS OF POLITICAL SUBDIVISIONS THROUGH FORFEITURES

By W. Sumner Holbrook, Jr., of Los Angeles Bar

"I take it to be self-evident that the purpose of bail is to insure the appearance of the defendant when required, and that the public interest is better subserved by having a fugitive or absconding defendant return to the Court to meet the requirements of justice than by swelling the public coffers with forfeited bail money." Mr. Justice Shenk in his dissenting opinion in *Seaboard Surety Corporation of America vs. Municipal Court*, 78, C.C. 628, 629.

It would seem that the above statement is so axiomatic a proposition that it would not require mention by a court of law. The fact that it is to be found in a dissenting opinion in a case in which the court held that a surety could not secure the exoneration of a forfeited bail bond because of the failure of the defendant to appear at the proper time, *even though it had been expressly found by the court below that the surety was in no way culpable and had in fact returned the defendant into court within 30 days after the forfeiture*, requires a little plain thinking as to just what are the underlying reasons for bail and the best mode of taking care of the bail bond problem if one exists.

The fundamental proposition that release upon reasonable bail before conviction is the constitutional right of one charged with crime, unless that crime entails capital punishment "when the proof is evident and the presumption great"<sup>1</sup> is so embodied in our historical past that it is very doubtful, no matter whether we like it or not, that it will be substantially curtailed or changed in the immediate future.

(1) California Constitution, Article 1, Section 6. Although a literal reading of the section would seem to imply a constitutional right after as well as before conviction, a contrary construction has been given to the section by the Courts. See *Ex parte* Vol. 41 Cal. 29.

What, then, is the purpose of the bail bond or other security deposited to release a person so charged with crime? It certainly is not for the purpose of releasing him from liability upon the payment through the bond of a civil fine for a criminal offense.

It certainly is not for the purpose of "swelling the coffers" of our cities and counties. Nor does the writer feel that it is only for the purpose of having the defendant present at a certain hour on a certain day and in default thereof to recover from him or his surety a large sum of money for the particular subdivision in which he happens to have been taken into custody. Rather it is, we submit, the purpose of bail to permit a man so charged, but not yet proved guilty of the offense, to his freedom with the certainty that he will be subsequently tried for said offense and serve a sentence thereon if found guilty.

#### HISTORY OF PRESENT LAW

With this fundamental purpose of bail in mind, let us briefly review the history and present condition of the law to ascertain how far the present statutory enactments promote this primary purpose. Originally, the surety on a bail bond was an individual personally known to the defendant in the criminal action. His position was a none too enviable one and the Courts sympathizing with him threw every protection around the surety. (*County of Merced v. Shaffer*, 40 Cal. App. 163, 167). Thus it was held that the bail bond had to comply with every provision of the law and, if it did not so comply, could not be regarded by the Court even as a common law bond (*San Francisco v. Hartnett* 1 Cal. App. 652; *People v. Barrett* 6 Cal. App. 576, 580; *County of Merced v. Shatter, supra.*) In the matter of procedure, however, this statutory bond was simply an obligation to pay money

which had to be collected, after forfeiture, through a civil action.

As life became more complex, the friendly surety changed in most cases to a person furnishing bail for profit and as a part of business. Many individuals engaged in this business were not willing to pay the penalty of the law and attempted through one of two means to avoid all loss on forfeited bonds. On the one hand they attempted through political expedients to prevent forfeiture or collection of the bond if forfeited. Secondly, by placing bonds, commonly known as straw bonds, backed by no security, they escaped all liability regardless of forfeiture.

The worst of the bail bond conditions existed in Los Angeles a few years ago when many individuals were engaged in the business solely as agents, securing the execution of bonds by aged and many times indigent owners of property (which was always of slight value) for a nominal fee to the surety, collecting a much larger fee for themselves without any risk or liability.

This straw bond problem, at least locally, was met some years ago by the adoption of stringent court rules requiring detailed scheduling of assets by the proposed surety coupled with the refusal of the courts to accept property bonds where the value of the property did not at least measure up to the rules laid down in the penal code. (Secs. 1279-1280a).

As a result of the stringent rules thus adopted and the entry almost simultaneously of surety companies into the field, the bail bond situation was entirely altered, and has since that time been largely concerned with corporate sureties.

#### THE 1927 AMENDMENT AND ITS EFFECT

The second step was taken by the Legislature of 1927 by the amendment of penal code section 1305 and the appropriate sections of the same code covering bail to the effect that thereafter the bond used should include a stipulation for summary judgment to be entered after forfeiture without any further legal procedure. It was intended by this device to prevent the possibility of political expediency impeding the collection of forfeited bonds.

The amendments of 1927 resulted in new abuses and difficulties not foreseen by their sponsors. Thus, those who had been interested in securing judgments on bail bonds, prior to 1927, had in fact been hampered

by political pressure on some occasions, yet the very fact that suit on such bonds could not be brought unless directed by the governing body of the City or County permitted a certain amount of flexibility in the enforcement of bonds which was desirable in order to secure the primary purpose of the bond. By way of example, it was customary not to file suit pending efforts on the part of the surety to return the criminal into custody, and if the surety was successful, to bring no action at all. In other cases suits were not brought where the bond had in fact been improperly or inadvertently forfeited, as very frequently happened in the hurried trial of a criminal action.

Subsequent to 1927 all this was changed. Not only was a judgment entered without any notice to the surety, but the courts soon held (Peo. v. Hodges 205 Cal. 477) that the judgment on such a bond was non-appealable as a consent judgment and therefore unless attacked by certiorari or upon appeal in the few cases where the lack of consent appeared upon the face of the records, (Peo. v. Aymar 98 Cal. App. 1, 4) there was no means of righting a wrong once done by virtue of a forfeiture. No longer was it possible to hold out an inducement to the surety that, if it secured the return of the defendant, his liability would be reduced or wiped out. In fact, the bail bond became a means of collecting large sums for political subdivisions of the State, and public officials openly boasted of the amount so collected, not realizing that such a profit was an admission that the primary object of the bond to have the defendant present and tried had been lost sight of.

This condition would not have been so bad had it not been, as above stated, that the great bulk of bonds were by 1927 being written by surety companies and not individuals. The surety companies, when they entered the field, treated the bail bond question as one of insurance and attempted, by setting up appropriate machinery, to return the absconding defendants, and in fact did so in a great majority of forfeited bonds. On the other hand, the situation would not have been so bad if this duty could have been carried out by the ordinary law enforcement agencies of the state. Without criticism of any enforcement agency, it is, of course, a matter of common knowledge that unless the particular case be one of great importance or great notoriety enforcement agencies are content with simply trans-

mittin  
agenc

Not  
the  
in his  
law r  
ant, h  
the d  
ment  
(Rees  
tor 8  
note,

Re  
islatur  
forn  
comp  
provi  
turne  
ment  
the H  
the s  
amou

W  
tion,  
It is  
comp  
durin  
visio  
comp  
order  
carry

It  
along  
sider

1.  
rule  
and  
shou  
prov  
valid  
wou  
litiga

2.  
1305  
upon  
days  
that  
lusic

3.  
shou  
oner

mitting information to corresponding agencies.

Not so the surety company. Not only is the surety company operative more diligent in his search, but by virtue of the common law relationship between surety and defendant, he is able without extradition to return the defendant, where the public enforcement agencies would many times fail. (Reese v. U.S., 76 U.S. 13; Taylor v. Taintor 83 U. S. 371; Penal Code sec. 1301; note, 14 LRA 605).

#### COMPLETE REVISION IS NECESSARY SUGGESTED CHANGES

Recognizing this condition, the 1929 legislature, acting at the behest of the California Crime Commission and the surety companies, partly remedied the situation by providing that, if the defendant were returned within a year from the date of judgment and were subsequently convicted of the highest offense charged, in such event the surety should have refunded to it the amount of the judgment previously paid.

While this was a step in the right direction, it was at best piece-meal legislation. It is evident the problem of bail has so completely changed from the simple days during which most of the bail bond provisions of this state were drafted that a complete statutory revision is necessary in order to meet present conditions and to carry out the primary purpose of bail.

It is therefore suggested that legislation along the following lines is worthy of consideration.

1. Abolition by definite enactment of the rule of law that bail is purely statutory, and expressly provide that a bail bond should be enforceable to the extent that its provisions are valid, regardless of any invalid provisions contained therein. This would do away with much of the present litigation over technical defects.

2. Amendment of Penal Code Section 1305 to provide exoneration of the bond upon the return of the defendant within 90 days after the forfeiture, upon a showing that the original default was without collusion on the part of the surety.

3. The grounds of exoneration of bonds should be codified and should permit exoneration in the following cases:

a. When the defendant is returned within 90 days and proof of non-collusion is made.

b. Proof of death of defendant within 90 days after the forfeiture.

c. Proof that the defendant is in custody in the State of California at the time of the default, or within 90 days thereafter.

d. Proof that the defendant is in custody within 90 days in any other State with a valid hold order pending.

e. Proof that the defendant is in custody in any foreign country where the offense charged on the bond is extraditable therefrom.

4. If a forfeiture has been rendered which has become final under the usual provision, but no judgment rendered thereon, such forfeiture should be automatically set aside and the bond reinstated upon all of the grounds and in all the cases set forth under "3" above.

5. If a judgment has been rendered but has not been paid, such judgment should be held in abeyance upon proof of any of the grounds set forth under "3" above, pending compliance with the provisions of penal code 1306, discussed below.

6. Section 1306 should be broadened so as to provide by its provisions, or elsewhere, that the return of a defendant before the entry of judgment should not prevent the refund under its terms, and to authorize an order setting aside a judgment if not paid upon compliance therewith. The section should also be broadened so as to permit, at the discretion of the court, a refund under its terms, even though the defendant is not convicted of the highest offense charged, such refund to be made upon such terms as to the court may seem due and proper. It is obvious that at present its terms are not just, in the full sense of the word, for the surety has done everything possible in returning the defendant into custody, but neither should the surety receive a refund after the case of the State has been jeopardized by the failure of the defendant to be present at the date of the original trial. Such an amendment would bring our state laws into conformity with the practice of the federal courts.

7. Automatic exoneration of a bond in good standing upon the return of a verdict in a jury case or the oral pronouncement of a decision by the judge in a non-jury case. The clerk should be required to give a certificate that the bond has been automatically exonerated without regard to

whether an express exoneration is ordered by the court or not. At the present time many judges and counsel neglect to provide exoneration of bonds in such cases, and the time of the courts is taken up by the securing of formal exoneration by surety companies at a later date on such bonds.

8. The present custom of many judges to pass sentence and suspend execution, requiring or assuming that the former bond is to stand, should be expressly prohibited. It is said on good authority that in a large percentage of such cases where the sentence is for a long period of years the defendant absconds. It is obvious that the

surety's risk is greatly increased under such circumstances, without any notice or possibility on the part of the surety to prevent loss until, in most cases, the loss has occurred.

9. By amendment of Section 1306 or by provisions in a new Section to provide for refund to the surety of a forfeiture on a bail bond in an appealed case upon the subsequent apprehension and return of the defendant. At the present time, while the law permits an incentive to a surety to return the defendant released on a bail bond before conviction, no such incentive exists on appeal bonds.

## Josiah Marvel

JOSIAH MARVEL was born near Georgetown, Delaware, on January 18, 1866, and died on October 11, 1930, six weeks after his election as the fifty-third President of the American Bar Association.

He organized and was the first President of the Delaware Bar Association and had for many years been extremely active in the work of the American Bar Association, serving both as Chairman and member of many of its more important Sections and Committees. He was always an active and energetic supporter of every movement that had for its purpose the improvement of the administration of justice, and is entitled to a large measure of the credit for the success which has attended the restoration to the courts of the rule-making power. A pleasing personality, combined with the ability to speak convincingly and charmingly, made his presence in constant demand, particularly at meetings of State Bar

Associations, to which requests he enthusiastically responded to the extent of his ability—irrespective of the personal sacrifice involved.

His wide acquaintance and knowledge of the problems of the profession throughout the country gave assurance of a successful administration as President of the American Bar Association. We record our admiration for a distinguished member of the profession of the law, our loss of a devoted leader, our regret at his untimely passing when his opportunity for service was expanding.

### COMMITTEE:

GURNEY E. NEWLIN, *Chairman*

JEFFERSON P. CHANDLER

THOMAS C. RIDGEWAY

### ATTEST:

LOYD WRIGHT, *Secretary*.

## Los Angeles Bar Association

### Monthly Meeting and Dinner

WEDNESDAY, NOVEMBER 19, 1930: 6:00 P.M.

Hotel Alexandria Banquet Room

JUDGE FRANK G. FINLAYSON entered Hastings College of Law in San Francisco in the year 1882. He was then brought in contact with many of the pioneer figures in the California Bar. He has kindly assented to our demands and will relate incidents and anecdotes covering prominent figures in the legal world of California. The thought has even inspired the Judge with a poetic turn and he has expressed the title of his address as follows:

"HOW HUMAN THEY ALL WERE — AND ARE!"

Anecdotes of the Older California Bar."

The orchestra will entertain us with Spanish airs and old-time American melodies.

Make a Note on your Calendar as Follows:

LOS ANGELES BAR ASSOCIATION "JINKS"

THURSDAY EVENING, DECEMBER 18TH.

You remember the last one; you will certainly remember this one.

THE PROPOSED NEW CONSTITUTION AND BY-LAWS OF LOS ANGELES BAR ASSOCIATION APPEAR ON PAGES 71 TO 87, INCL. OF THE NOVEMBER ISSUE OF THE BULLETIN, which is being forwarded to you with this notice of meeting. Action on the adoption of the new Constitution and By-Laws will be taken at the meeting November 19, 1930. Bring the November Bulletin with you to the meeting.

The New Constitution and By-Laws provide that a Nominating Committee of seven members of the Association shall be selected at the November meeting, and if adopted the selection of a Nominating Committee will be in order.

Guests of Members are Welcome  
Informal Dinner, \$1.50

BEAR IN MIND THAT THE MEETING IS TO BE  
ON WEDNESDAY, NOVEMBER 19TH INSTEAD  
OF THE USUAL THURSDAY.

MAIL RESERVATION CARD NOW

PROGRAM COMMITTEE:

JOE CRIDER, JR.  
WALTER E. BURKE  
FLORENCE M. BISCHOFF  
ROY V. RHODES  
ARTHUR M. ELLIS, *Chairman*.

The firm of

**MUHLEMAN, ANDERSON & PALMER**

dissolved as of November 1, 1930.

**SHERMAN ANDERSON**

and

**ALVIN M. PALMER**

will practice law individually in their present offices,

520 ROWAN BUILDING, 458 SOUTH SPRING STREET

LOS ANGELES, CALIFORNIA

TRINITY 4152

# The Alexandria

Internationally Famous

Los Angeles

The Headquarters for The Los Angeles Bar Association  
will always do its utmost for  
Members of the Legal Fraternity—Their Families—Their Friends  
and Employees.  
Cordially and Hospitably



## ALEXANDRIA HOTEL COMPANY

E. C. EPPLEY  
President

CHARLES B. HAMILTON  
Vice President & Managing Director

The Alexandria is an affiliated unit of the Eppley Hotels Co's. 20 Hotels  
in the Middle West, Pittsburg, Pa., Louisville, Ky., and the Hamilton  
Chain of Hotels in California and Arizona



# A Defense of "Alternative" Method of Appeal

**ITS DESIGNATION AS "LAZY METHOD" DECLARED UNMERITED.  
COMPARISON DRAWN WITH BILL OF EXCEPTIONS METHOD.  
GROWING PREFERENCE OF LAWYERS TO FORMER.  
SAVING OF COURT'S TIME AN ELEMENT.  
HISTORY OF SECTION 963-a, C. C. P.**

**By James Farraher of the Los Angeles Bar.**

For some reason or other the so-called "alternative" method of appeal prescribed by Sections 953-a, Code of Civil Procedure, and succeeding paragraphs, has come in for considerable criticism. One of our leading justices recently characterized the method as slovenly and recommended its speedy abandonment. More recently, at a meeting of one of the sections of the State Bar, in Los Angeles, a prominent lawyer became quite vigorous in his attack upon this alternative method and was very critical of attorneys who were so lazy as to adopt it. It is time, therefore, that a word be spoken for the defendant, which we will undertake.

The Code sections originally creating this alternative method were first enacted in 1907, and since then have been perfected, the improvements culminating in the amendments of 1929. Since its adoption the use of this method as opposed to the Bill of Exceptions, or settlement of the case method, has become gradually more popular among the attorneys. We find from an examination of the Supreme Court civil records for the filings in Southern California from September 1, 1929, to August 30, 1930, that 285 appeals were filed before that court, or started in that court, by filing clerk's and reporter's transcripts under the alternative method, and 124 under the old Bill of Exceptions method. These figures give the Bill of Exceptions method some advantage for the reason that they do not include the cases filed under 953-a where only a clerk's transcript went up (which is practically a judgment roll appeal).

Taking the same period for the District Court of Appeals for the Second District, it is discovered that out of 331 civil appeals filed, 144 were clerk's and reporter's transcripts under 953-a, 92 clerk's transcripts under the same section, and 95 printed transcripts under the Bill of Exceptions method, of which latter at least 21 were judgment roll appeals. A noting of the attorneys who appeared for the appellants during the pe-

riod in question, discloses that the proportion of so-called leaders of the bar and so-called obscure lawyers is about the same in both classes of appeal.

## ALTERNATIVE METHOD FAVORED BY THE BAR. COMPARISON DRAWN

These statistics show that the filing of an appeal under 953-a does not indicate that the attorney filing the same is either slovenly or lazy, nor does the use of the Bill of Exceptions method indicate that the attorney using the same is more energetic or conscientious than his fellows, following the other method. One, therefore, is drawn to the inevitable conclusion that the alternative method is by considerable odds the one most favored by the bar, which leads us to an analysis of the steps taken in each form of appeal to determine its merits in other regards.

In view of the fact that on a judgment roll appeal it does not make any difference whether the alternative method is used, the Bill of Exceptions method is used, or the judgment roll by itself is sent up, printed and certified, we will therefore, simply consider those cases in which it is necessary to bring up the evidence in addition to the judgment roll.

## BILL OF EXCEPTIONS METHOD

1. A typewritten transcript is prepared
2. A proposed Bill of Exceptions is prepared and served
3. Respondent serves his suggested amendments to the Bill if any
4. Attorneys appear before the court and the Bill is settled
5. The settled bill is engrossed
6. Transcript is printed and filed
7. Opening brief printed and filed.

## ALTERNATIVE METHOD

1. A typewritten transcript is prepared
2. Typewritten transcript filed with Appellate Court

# Corporations— Anywhere—

¶ When you have a company to incorporate in any state other than California, or —

¶ When you have a company to qualify in any state as a foreign corporation —

¶ You have, readily available thru our organization, a service complete, competent and economical for just the assistance you need.

¶ Dealing only with members of the Bar —organized in 1902 — our experience and reputation constitute a reliable safeguard for your corporate matters anywhere.

• • •

## UNITED STATES CORPORATION COMPANY

New York  
Dover, Del.  
Albany, N. Y.  
Baltimore, Md.  
Jersey City, N. J.  
Washington, D. C.

**Van Nuys Building  
Los Angeles**

**TUCKER  
8764**

Chicago  
St. Louis  
Minneapolis  
Philadelphia  
Tallahassee, Fla.  
Carson City, Nev.

3. Op  
tra  
ple  
4. Re  
to  
So  
transc  
file.  
tween  
the tr  
in the  
altern  
Sec  
of Ex  
"so m  
explai  
Section  
ing o  
metho  
his br  
desire  
Rule  
that t  
suffici  
such  
conten  
eviden  
report  
stated

ALT

It i  
same  
in the  
and o  
eviden  
would  
under

It i  
only a  
the ap  
tions  
the tes  
tional

The  
to the  
Bill of  
that c  
the la  
peal d  
in the  
ment  
lawyer  
ing 12  
of am  
them,  
small

3. Opening Brief filed with such portion of transcript as desired, printed as a supplement
4. Respondent's brief may contain additions to the printed record.

So in each case you have a typewritten transcript. In each case you have briefs to file. The only difference, therefore, is between the printed Bill of Exceptions, called the transcript, and the printed supplement in the back of the Opening Brief under the alternative method.

Section 648, which provides for the Bill of Exceptions, states that it must contain "so much of the evidence as is necessary to explain it (the exception), and no more." Section 953-c, which provides for the printing of the record under the alternative method, requires that the appellant print in his brief "such portion of the record as he desires to call to the attention of the court." Rule 8 of the Supreme Court prescribes that to conform to this requirement it is sufficient to state therein "the substance of such record." Section 648, prescribing the contents of an exception which involves the evidence, states "only the substance of the reporter's notes of the evidence shall be stated."

#### ALTERNATIVE METHOD SAVES TIME OF TRIAL COURT AND THE LAWYER

It is, therefore, safe to say that if the same lawyer made two records of appeal in the same case, one the alternative method, and one the bill of exceptions method, the evidence supplement to his 953-c brief would be identical with his *proposed bill* under the old method.

It is our experience that as a rule the only amendments to the proposed Bill of the appellant are either substitution of questions and answers in lieu of a narrative of the testimony in the proposed bill, or additional evidence such as exhibits.

There can be no doubt that the saving to the trial court, of the settling of contested Bill of Exceptions, is a substantial gain for that court. It is obviously a time-saver for the lawyer, because each lawyer in the appeal dictates but one statement of the record in the evidence and he is saved the argument in the trial court over the Bill. Any lawyer who has had the experience of having 125 page proposed Bill met by 150 pages of amendments and has had to dovetail them, knows that the time saving is not a small element in the appeal.

Incidentally, (and this is no small matter, as we have learned to our sorrow in the past) the alternative method has earned the respect of the lawyer by eliminating that ever present danger, of time lapsing in the preparation, settling and filing of the Bill of exceptions.

#### FAILURE TO COMPLY WITH 953-C CAUSES CONFUSION

There has been considerable confusion in the Appellate Court under the alternative method, through the failure of attorneys to comply with the provisions of 953-c as to the printing of the evidence in the Supplement to the Opening Brief. Some of this confusion doubtless was due to the changes back and forth, in the Code section since its inception. The Act was adopted originally in 1907, and, apparently, it took some time for the lawyers to begin the experiment under the new method, for we find Justice Louis Hart, the grand old man of the Third Judicial District, as late as 1911, protesting that the new method would be a time taker instead of a time saver, unless the court should definitely hold that the printing of the record in the brief or in a Supplement thereto was mandatory. (See *San Joaquin, etc. vs Stevenson*, 16 Cal. App. 535)

In that stage of its history 953-a made no provision for certification of matters not covered by the clerk's transcript, in cases where there was no reporter. This necessitated the preparation of a Bill of Exceptions. Then to add to the confusion and to encourage laxity in the preparation of the record, came the 1919 amendment which prohibited the Appellate Court from dismissing appeals because the printing requirement was not complied with. This amendment provided that, in the event that any portion of the record was omitted, the court should give the appealing party opportunity to file a supplement incorporating the missing portions of the record. This amendment of 1919 was repealed in 1923 and it is now definitely established by court decision that the Appellate Courts shall not consider any part of the record brought up under the alternative method, which is not printed in the Appellant's brief or in the Supplement thereto. (See *Estate of Barry*, 195 Cal. 354 at 358).

And finally it is now settled that where there is a reporter lacking and the clerk's transcript is not sufficiently comprehensive, the remainder of the record may be certi-

fied to by the trial court. (See *Lake vs. Harris*, 198 Cal. 85).

So Justices of the Appellate Courts might very well be disgusted with the confusion created by the alternative method in its brief history.

*It would undoubtedly simplify the work of the Appellate Court upon the 953-a appeals if the 953-c should provide that the record should always be in a supplement to the brief rather than give the attorney the alternative of incorporating it in the body of the brief or in a supplement.*

An examination of the files of the Appellate Courts at Los Angeles disclose a lack of uniformity in this regard, although the great bulk of the appeals under the alternative method carry the record in the form of a supplement.

#### ALTERNATIVE METHOD SIMPLER, SAFER. REFORM SUGGESTED

It is our conclusion, therefore, that the alternative method is the advantageous one because, first, it is the simpler, second, it removes to a certain extent at least, danger of a slip-up on the time element of the appeal, third, it is a saver of the attorney's time, and fourth, it is a saver of the trial court's time.

This leaves the only element left for comparison, that of the time of the Appellate Court. Obviously the alternative method does not save the time of the Appellate Court. It might very well be, that the failure of some lawyers to prepare uniform records under the alternative method, results in taking up more of the time of the Appellate Court on such an appeal than if the matter was up on a Bill of Exceptions, but it would be certainly much simpler to correct this difficulty by insistence upon uniformity of record under the alternative method, rather than by abolishing it and reverting to the more cumbersome and technical Bill of Exceptions method.

There is a final consideration that should weigh heavily upon those who would abolish the alternative method, and that is, that in this era of social unrest, simplicity in court procedure and the reasonable elimina-

tion of technicalities, would go a long way toward restoring that public confidence in the courts which was lost through the "laws delays" resulting from our too rapid growth.

If the trial courts are wrong in approaching thirty per cent of the cases appealed, as an examination of the reports show, no unnecessary hurdles should be placed in the appellant's path.

#### BOOK REVIEW

CHARTER PARTIES AND OCEAN BILLS OF LADING (Second Edition) by Wharton Poor of the New York Bar; XII and 431 pages; 1930, Matthew Bender & Company, Albany, New York; Price \$10.00.

The author of this book recognized the need of a great book to cover the field on the subject of charter parties and bills of lading ten years ago, at which time he published his first edition. So many important decisions have been rendered by the Courts on this subject since the publishing of the first edition he undoubtedly deemed it necessary, and wisely so, to enlarge on his first edition, which resulted in the publishing of the second edition in March of this year.

This book is divided into five chapters, namely: Time Charters, Voyage Charters, Demurrage, Bills of Lading and Damages, which are followed by appendices including various standard forms of charter parties, a standard form of Bills of Lading and numerous acts in connection therewith, such as the Harter Act, Federal Bills of Lading Act, British Carriage-of-goods-by-sea Act, 1924, The York-Antwerp Rules of 1890 and 1924, and the United States Arbitration Act, 1925.

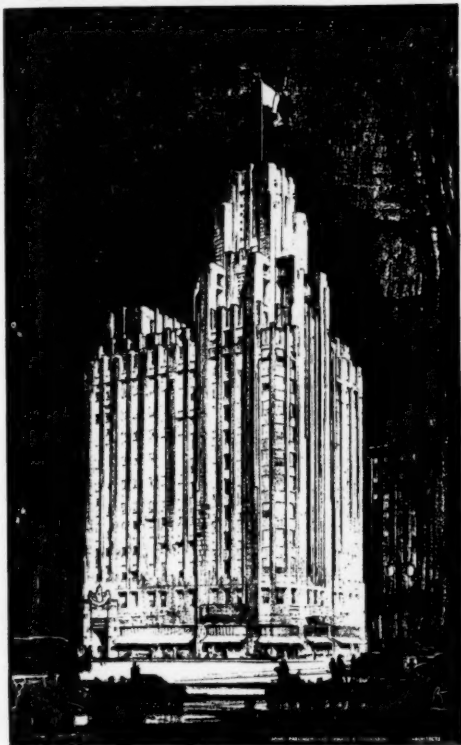
The forms set forth in the appendices are analyzed by referring to the proper sections of the text, which are in turn supported by the latest cases on the subject as given in the footnotes. This book should be very popular among lawyers as well as laymen who are interested in shipping, as it is the only published American text book devoted to this important subject and is complete in every detail.

L. K. VERMILLE

#### SIGNED ARTICLES

THE BULLETIN is an open forum for the full expression of the members of the bar on matters of importance. As the widest range of opinion is necessary in order that different aspects of such matters may be presented, the Committee having charge of the publication of the Bulletin assumes no responsibility for the opinions in signed articles, except to the extent of expressing the views, by the fact of publication, that the subject treated is one which merits attention.

# OUR NEW HOME IN 1931



TITLE  
GUARANTEE  
BUILDING

HILL  
AND  
FIFTH

LOS ANGELES

~~~~~ 35 years of  
faithful, efficient

TRUST  
MANAGEMENT

**TITLE GUARANTEE & TRUST  
COMPANY**

TITLE GUARANTEE BUILDING  
Broadway at Fifth, Los Angeles  
*Capital and Surplus \$7,500,000.00*

OUR 1931

# DIRECTORY OF ATTORNEYS

IS NOW IN PREPARATION

This revised and enlarged edition will include a supplement of  
Fresno, Bakersfield, Pasadena, Long Beach, San Diego  
and all other Southern California cities.

IF YOU HAVE MOVED OR YOUR TELEPHONE  
NUMBER HAS BEEN CHANGED SINCE  
JAN. 1, 1930, KINDLY ADVISE US.



## PARKER, STONE & BAIRD COMPANY

LAW PRINTERS

PUBLISHERS

ENGRAVERS

241 East Fourth Street

Los Angeles

TRinity 5206

**32 YEARS SERVICE TO ATTORNEYS**



